

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

SALOMON JUAN MARCOS VILLARREAL,)
vs.) Case No. 2:11-cv-01594-JCM-GWF
Plaintiffs,)
NEVADA DEPARTMENT OF)
CORRECTIONS, *et al.*,)
Defendants.)

Presently before the court is the government's motion for a status conference to ascertain the status of the government's motion for summary judgment. (Doc. #36). Plaintiff Salomon Juan Marcos Villareal has not yet filed an opposition.

19 This case was originally filed in the District of Colorado on April 14, 2011. On July 22,
20 2011, the government filed a motion to dismiss and/or summary judgment. Doc. #31. The
21 magistrate judge issued a report and recommendation that the motion be granted on jurisdiction
22 grounds and the case transferred to the District of Nevada.

23 On September 30, 2011, The district judge affirmed the report and recommendation in
24 part, and rejected it in part, finding that the case should be transferred to the District of Nevada,
25 but also denying the motion to dismiss or for summary judgment as moot. The matter was
26 thereafter transferred to the District of Nevada. Now, nearly a year later, the government has
27 petitioned this court for a status hearing to determine why the court has not adjudicated its
28 motion for summary judgment.

1 Apparently, the government believes that the Colorado court's denial of the motion
2 resolved the dismissal portion of the motion, while leaving the summary judgment arguments
3 pending. The government is misinformed.

4 While the Colorado court may not have reached the merits of the dismissal/summary
5 judgment motion, its order denying the motion as moot terminated the motion without prejudice.
6 Accordingly, this court’s docket reports have never indicated that this case contained a ripe
7 motion for the court’s review.

8 The parties' failure to refile the motion, or seek reconsideration of the order denying the
9 motion as moot, has left the docket with no motion for summary judgment pending. It is
10 improper for this court to rule on terminated motions. Moreover, in light of additional
11 proceedings in parallel cases that remained in Colorado, *see, e.g.*, docket #1:11-cv-01000, the
12 court cannot be sure that the now year-old motion contains the most relevant legal discussion or
13 analysis.

14 || Accordingly,

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the motion for status hearing (doc. #36) be, and the same hereby is, DENIED.

17 IT IS FURTHER ORDERED that the government file a motion for summary judgment,
18 or move for reconsideration of the order denying the previous motion for summary judgment, as
19 counsel sees fit.

20 DATED this 10TH day of August, 2012.

Jewell C. Mahan